

No. 83-373

Office - Supreme Court, U.S.

FILED

FEB 8 1984

ALEXANDER E. STEVAS,

CLERK

In the Supreme Court of the United States

OCTOBER TERM, 1983

REVEREND W. EUGENE SCOTT, PETITIONER

v.

JOEL ROSENBERG, ET AL.

ON PETITION FOR A WRIT OF CERTIORARI TO THE
UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

**MEMORANDUM FOR THE RESPONDENTS
IN OPPOSITION**

REX E. LEE
Solicitor General
Department of Justice
Washington, D.C. 20530
(202) 633-2217

TABLE OF AUTHORITIES

Cases :

Page

<i>Application of Faith Center, Inc., Station KHOF-TV San Bernardino, California, In re</i> , 82 FCC.2d 1, aff'd sub nom. <i>Faith Center, Inc. v. FCC</i> , Nos. 81-1648 & 81-1649 (D.C. Cir. Apr. 7, 1982), cert. denied, No. 82-867 (Feb. 22, 1983)	3
<i>Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics</i> , 403 U.S. 388	4
<i>Butz v. Economou</i> , 438 U.S. 478	6
<i>Faith Center, Inc. v. FCC</i> , cert. denied, No. 83-966 (Jan. 23, 1984)	3
<i>Harlow v. Fitzgerald</i> , 457 U.S. 800	7
<i>King's Garden, Inc. v. FCC</i> , 498 F.2d 51, cert. denied, 419 U.S. 996	6
<i>Office of Communication of United Church of Christ v. FCC</i> , 359 F.2d 994	6
<i>Scheuer v. Rhodes</i> , 416 U.S. 232	6-7
<i>Sherbert v. Verner</i> , 374 U.S. 398	5, 6
<i>United States v. Lee</i> , 455 U.S. 252	6

Constitution and statutes :

U.S. Const. :

Amend. I	3, 4, 5, 7
Establishment Clause	4
Free Exercise Clause	1, 3
Amend. IV	4
Amend. V	4
Amend. XI	4
18 U.S.C. 1343	2, 3, 5
42 U.S.C. (Supp. V) 1983	4
42 U.S.C. (Supp. V) 1985(3)	4

In the Supreme Court of the United States

OCTOBER TERM, 1983

No. 83-373

REVEREND W. EUGENE SCOTT, PETITIONER

v.

JOEL ROSENBERG, ET AL.

*ON PETITION FOR A WRIT OF CERTIORARI TO THE
UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT*

MEMORANDUM FOR THE RESPONDENTS IN OPPOSITION

Petitioner contends that the court of appeals erred in holding that respondents did not violate his rights under the Free Exercise Clause of the First Amendment and in failing to remand this case for further proceedings on the merits.

1. Petitioner is the president and pastor of Faith Center Church. He brought this action for monetary damages and declaratory and injunctive relief against five current or former employees of the Federal Communications Commission for alleged violation of his constitutional rights occurring during the Commission's investigation of television station KHOF-TV in San Bernardino, California, of which Faith Center

Church is the licensee (Pet. App. 1; see also App., *infra*, 2a).¹ The Commission was investigating the licensee for possible violation of the wire fraud statute, 18 U.S.C. 1343, which prohibits the use of a television station for the purpose of carrying out any scheme "to defraud, or for obtaining money or property by means of false or fraudulent pretenses, representations, or promises."

The investigation was instituted in response to a letter from a former Faith Center employee, Paul Diederich, who alleged that the licensee had improperly solicited funds from the broadcast audience (Pet. App. 1; App., *infra*, 3a). Specifically, Diederich charged that petitioner had solicited funds for projects that were never undertaken, and was using the broadcast station for his own personal gain (Pet. App. 1). Further inquiry by Commission investigators uncovered additional allegations: "that the stations had failed to log paid religious programming as commercial broadcasting, that [petitioner] had misstated the amount of his personal remuneration during broadcast solicitations, and that [petitioner] had made personal pledges during the broadcasts which he had never fulfilled" (Pet. App. 2).

As a result of these allegations, two Commission investigators made an unannounced visit to the offices of Station KHOF-TV and demanded access to the licensee's books, records and employees (Pet. App. 2; App., *infra*, 3a). Some, but not all, of the re-

¹ The opinion of the court of appeals (Pet. App. 1-22) is reported at 702 F.2d 1263. The district court's findings of fact and conclusions of law, order and summary judgment are not reported and were not included in the appendix to the petition. Accordingly, we have attached them as an appendix to this memorandum in opposition (see App., *infra*, 1a-12a).

quested materials were made available (Pet. App. 2; App., *infra*, 3a-5a). The Commission subsequently issued an order and notice of apparent liability for forfeiture for violation of 18 U.S.C. 1343 and designated for hearing the station's license renewal application (Pet. App. 2; App., *infra*, 5a). The Commission ultimately dismissed the license renewal application because of Faith Center's lack of good faith in resisting disclosure of information relevant to the Commission's inquiry. See *In re Application of Faith Center, Inc., Station KHOF-TV San Bernardino, California*, 82 F.C.C.2d 1 (1980), *aff'd sub nom. Faith Center, Inc. v. FCC*, Nos. 81-1648 & 81-1649 (D.C. Cir. Apr. 7, 1982), cert. denied, No. 82-867 (Feb. 22, 1983).²

2. Meanwhile, petitioner pursued this action, claiming (Pet. 3) that "[a]ny coerced disclosure of donations * * * directly violates a central tenet of Petitioner's religious beliefs." Because petitioner's donation records were among the documents sought by the Commission investigators, petitioner alleged (Pet. App. 6) that "the threatened or actual dissemination of his personal donation records" violated his rights under the Free Exercise Clause—as distinguished and separate from those "of the church or of any third person."³

The district court granted respondents' motion to dismiss the complaint on the grounds that petitioner

² Faith Center filed a second petition for a writ of certiorari in the license renewal case, which this Court denied on January 23, 1984. *Faith Center, Inc. v. FCC*, No. 83-966.

³ Virtually the identical First Amendment claim was made by the licensee and rejected by the Commission and the District of Columbia Circuit in the related license renewal proceeding. See *In re Application of Faith Center, Inc.*, 82 F.C.C.2d at 17-21.

lacked standing to challenge a Commission investigation directed against the licensee and not against himself (App., *infra*, 8a) and that, in any event, respondents were protected from liability by their official immunity (*ibid.*). The district court also granted summary judgment in favor of respondents on petitioner's First Amendment claim because respondents' "requests * * * for records from the licensee did not violate [petitioner's] civil or constitutional rights" (*id.* at 7a; see also *id.* at 8a).

The court of appeals rejected the district court's holding that petitioner lacked standing (Pet. App. 3-6), but it affirmed the entry of summary judgment for respondents on petitioner's First Amendment claim (*id.* at 9-22).⁴ The court of appeals first assumed, without deciding, that petitioner could maintain a *Bivens*-type action⁵ for damages and injunctive relief against respondents in their individual capacities for alleged violation of his First Amendment rights (Pet. App. 9-12). The court then held (1) that the government, in the special context of FCC regulation of broadcast licensees, is not required to show a compelling governmental interest before investigating an allegation of fraud by a licensee owned by or associated with a religious organization (*id.* at 13-15); (2) that the government is required to show a compelling governmental interest when the demands of its investigation directly conflict with the free exer-

⁴ The court of appeals found petitioner's Fourth, Fifth and Ninth Amendment claims "frivolous" (Pet. App. 2 n.1). The appellate court also rejected petitioner's arguments under 42 U.S.C. (Supp. V) 1983 and 1985(3) and the Establishment Clause of the First Amendment (Pet. App. 6-9, 22).

⁵ *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971).

cise of a sincerely held religious belief (*id.* at 15-16); and (3) that although the Commission's demand for the licensee's records in this case did interfere with petitioner's Free Exercise rights, the Commission's narrow and limited inquiry was necessary to serve the government's compelling interest in preventing fraudulent practices (*id.* at 16-22).⁶

3. The result reached by the court of appeals is correct and does not conflict with any decision of this Court or any other court of appeals. Further review therefore is unnecessary.

Petitioner mistakenly contends (Pet. 5-9) that the court of appeals ran afoul of *Sherbert v. Verner*, 374 U.S. 398 (1963), by failing to require that the government utilize the least restrictive means of furthering its compelling interest in investigating the licensee for possible violation of the wire fraud statute, 18 U.S.C. 1343. In fact, however, the court of appeals engaged in a searching review of the Commission's investigation in this case and held the government to an extraordinarily high standard of justification to support its demand for access to the licensee's donation records concerning petitioner (see Pet. App. 13-22). Specifically, among the several factors expressly mentioned by the court of appeals in concluding that the Commission's demand was justified under First Amendment standards was the Commission's "compl[iance] with the principle that

⁶ By order of April 13, 1983, the court of appeals denied petitioner's motions to vacate the judgment and issue a stay. Petitioner has filed a second petition for a writ of certiorari in this case, seeking review of the April 13, 1983 order. See *Scott v. Rosenberg*, No. 83-570. The petition raises essentially the same issues presented by Faith Center in No. 83-966 (see note 2, *supra*). The government has waived its right to file a response to the petition in No. 83-570.

valid restrictions on first amendment rights must embody the least restrictive means of effectuating the government's compelling interest" (Pet. App. 21-22 (citing, *inter alia*, *Sherbert v. Verner*, 374 U.S. at 407)).⁷

Petitioner's additional contention (Pet. 9-10), that the court of appeals violated his Due Process rights by failing to remand this case for a trial on the merits, similarly is without merit. First, petitioner's apparent belief that the district court's decision was limited to the issue of standing (Pet. 3-4, 9) is plainly incorrect. As noted above (page 4, *supra*), the district court also found that respondents were entitled to dismissal of petitioner's complaint because of their official immunity (App., *infra*, 8a, citing *Butz v. Economou*, 438 U.S. 478 (1978), and *Scheuer*

⁷ Indeed, in our view, the court of appeals was overly generous towards petitioner's arguments both with respect to standing and with respect to the need for showing a compelling government interest in a case such as this one, which involved the Commission's efforts to assure that a broadcast licensee was operating its station in the public interest. The licensee's religious affiliation afforded it no exemption from the requirements of the Communications Act. A "religious group, like any other, may buy and operate a licensed radio or television station. * * * But, like any other group, a religious sect takes its franchise 'burdened by enforceable public obligations.'" *King's Garden, Inc. v. FCC*, 498 F.2d 51, 60 (D.C. Cir.), cert. denied, 419 U.S. 996 (1974) (quoting *Office of Communication of United Church of Christ v. FCC*, 359 F.2d 994, 1003 (D.C. Cir. 1966)). See also *United States v. Lee*, 455 U.S. 252, 261 (1982) ("When followers of a particular sect enter into commercial activity as a matter of choice, the limits they accept on their own conduct as a matter of conscience and faith are not to be superimposed on the statutory schemes which are binding on others in that activity.").

v. *Rhodes*, 416 U.S. 232 (1974)).⁸ The district court further held that there was no genuine issue of material fact and that respondents were entitled to summary judgment on the merits of petitioner's First Amendment claim (App., *infra*, 7a, 8a).

Moreover, the court of appeals itself "examine[d] the record to determine if there is any genuine factual dispute whether the government employees violated [petitioner's] first amendment rights" (Pet. App. 12). Because the court acknowledged (*id.* at 16) that "the FCC's demand [for the records of petitioner's donations] interferes with [petitioner's] first amendment rights," and because the issue "[w]hether a government interest is or is not compelling is a question of law" (*id.* at 17), the court concluded (*id.* at 3) that "[s]ummary judgment was appropriate because there is no genuine issue as to any material fact." In the absence of any disputed material fact, the court of appeals did not offend petitioner's due process rights by affirming the district court's summary judgment on the merits of the First Amendment claim rather than remanding the case for further proceedings.

It is therefore respectfully submitted that the petition for a writ of certiorari should be denied.

REX E. LEE
Solicitor General

FEBRUARY 1984

⁸ This Court's recent decision in *Harlow v. Fitzgerald*, 457 U.S. 800 (1982), makes even clearer that the district court's finding of official immunity in this case was correct. The court of appeals did not reach the immunity question (see Pet. App. 22).

APPENDIX

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

No. CV 78-3132-AAH(G)

THE REVEREND W. EUGENE SCOTT, PLAINTIFF

v.

EVELLE J. YOUNGER, ET AL., DEFENDANTS

[Filed Jan. 9, 1980]

FINDINGS OF FACT AND
CONCLUSIONS OF LAW

(AS MODIFIED AND RECOMMENDED
BY THE MAGISTRATE)

Defendants' Motion for Summary Judgment having come on for hearing on June 12, 1979, before the Honorable Ralph J. Geffen, United States Magistrate, the Plaintiffs having appeared through his attorney, Peter Van Name Esser, and Defendant having appeared through its attorneys, Andrea Sheridan Ordin, United States Attorney, Frederick M. Brosio, Jr., Assistant United States Attorney, Chief, Civil Division, by Daniel G. Clement, Assistant United States Attorney, and after a thorough consideration of the pleadings filed herein, as well as memoranda submitted and the oral argument made at the time of the hearing on the Motion, the Court makes the following findings of Fact and Conclusions of Law.

FINDINGS OF FACT

1. This is an action seeking declaratory and injunctive relief as well as monetary damages brought pursuant to 42 U.S.C. 1983, 42 U.S.C. 1985(3) and directly under the United States Constitution.

2. The complaint names Wallace Johnson, William B. Ray, Arthur L. Ginsburg, Jeffrey Malickson, and Joel Rosenberg (hereinafter Federal Defendants), who are officials of the Federal Communications Commission, and Joseph Baumgartner, John Grutzmaker and Paul Diederich, who were formerly associated with Faith Center, Inc. Each of the above-named individuals are sued in their individual capacities.

3. Plaintiff, Reverend W. Eugene Scott, is the Pastor and President of Faith Center Church and Faith Broadcasting Network, a four-station radio and television ministry with religious stations in San Bernardino, San Francisco, and Los Angeles, California, and Hartford, Connecticut, but sues here only in his individual capacity.

4. Faith Center, Inc. (hereinafter Faith Center) is the licensee of Station KHOF-TV, San Bernardino, California. It is a non-profit interdenominational religious organization.

5. The Federal Communications Commission is the federal agency charged with, among other things, the responsibility for licensing broadcast stations and assuring that the licensees operate their stations in accordance with the Communications Act (47 U.S.C. 151 *et seq.*), the Commission rules, regulations and policies, and in a manner consistent with the public interest, convenience and necessity. 47 U.S.C. 307(a) and 309(a). The discharge of this responsibility frequently requires examination of various books and records maintained by licensees, including financial

records. It also frequently requires questioning the licensees' employees about matters relating to their employment.

6. On August 15, 1977, the Commission received a letter from Paul Diederich, a former employee of Faith Center Church, complaining about alleged improper activities concerning false and fraudulent practices in the broadcast of solicitations of funds by the licensee, on behalf of Faith Center Church.

7. On the basis of that complaint, the Commission officials in the Complaints and Compliance Division of the Commission's Broadcast Bureau determined that the Commission must make a field investigation in order to carry out its statutory mandate to ensure that broadcast licenses are used in the public interest, convenience and necessity.

8. On September 15, 1977, the Commission began its informal investigation. On that date, Joel Rosenberg and Jim Lyddane were sent to California.

9. While in California the complainant (Paul Diederich) spoke with Mr. Rosenberg and Mr. Lyddane and made further allegations regarding improper broadcast solicitations at Faith Center.

10. On the morning of September 19, 1977, Mr. Rosenberg and Mr. Lyddane arrived without prior notification at Station KHOF-TV located in the main church building in Glendale, California.

11. One of the Commission investigators advised representatives of Faith Center who they were, that they were investigating allegations of improper fund raising made against the licensee, Faith Center, and that they desired access to the licensee's books, records and employees.

12. On that date and on other occasions, Mr. Rosenberg and Mr. Lyddane made requests of repre-

sentatives and employees of Faith Center for certain of its books and records, and for employee interviews. Not all of the information which they requested from Faith Center was provided.

13. Other persons who were believed to have relevant information concerning the allegations of improper broadcast solicitations at Faith Center were interviewed by the investigators. An allegation similar to that of Mr. Diederich regarding broadcast solicitation, misrepresentation and fraud was made, as well as other charges. The investigators were also told that possibly the California Attorney General's office was conducting an inquiry of Faith Center.

14. While in California, Mr. Rosenberg contacted the Attorney General's office to verify whether there was a state inquiry.

15. During the investigation, Mr. Rosenberg asked Mr. Esser to provide him with information from the licensee's records regarding Reverend Scott's salary and donation record. This information was not provided.

16. During the investigation, Mr. Rosenberg was informed by Mr. Henderson that Mr. Esser was counsel for Faith Center and dealt with FCC matters. Mr. Rosenberg was later informed that Mr. Esser was also Dr. Scott's attorney.

17. After Mr. Rosenberg and Mr. Lyddane returned to Washington, D.C., William Ray, then Chief of the Complaints and Compliance Division of the Broadcast Bureau sent the licensee a letter requesting various information. The letter which was dated October 31, 1977, was sent to the licensee with copies to its attorneys. The letter was not made public by any of the Federal Defendants. The licensee did not provide all the information that was requested.

18. On June 15, 1978, the Commission sent Faith Center a letter again requesting information. The Commission stated: "(It) presently finds itself with outstanding allegations of licensee wrongdoing which it feels must be resolved before a finding can be made that renewal of the Station KHOF-TV license is in the public interest. Resolution of these allegations requires compliance with the requests contained herein, and you are requested to comply within thirty (30) days of the date of this letter. . . . Failure to submit the requested information will result in immediate designation for hearing of the Station KHOF-TV license renewal application."

19. On October 2, 1978, the Commission adopted an Order and Notice of Apparent Liability designating the license renewal application of Station KHOF-TV for hearing.

20. The conduct of the investigation did not violate any Commission rules or regulations.

21. The investigation conducted by the Commission was at all times directed at and to the licensee, Faith Center Church, and not Reverend Scott personally.

22. No request, demand, subpoena or question was directed to Reverend Scott personally, or for production by Reverend Scott or any personal representative of him for production of data or records by him or from his personal files (as distinguished from records or information pertaining to him in the files of the licensee, by or on behalf of the Federal Defendants or any of them.

23. In regard to the designation of Station KHOF-TV for hearing, Mr. Ginsburg and Mr. Johnson presented the Broadcast Bureau's recommendation to the Commission. Mr. Malickson also appeared before

the Commission and answered questions and discussed the matter. None of the Federal Defendants designated the license renewal application of Station KHOF-TV for a license renewal hearing, an action solely within the power of the Commission itself.

24. On October 10, 1978, Federal Defendants were served with the original complaint in this action.

25. There were a series of phone conversations between Mr. Abbey and Mr. Rosenberg during the course of the Faith Center inquiry. There were also conversations between Mr. Abbey and Mr. Malickson. In addition, Mr. Ginsburg sent Mr. Abbey a copy of the Commission's letter of June 15, 1978, which was a public document. Mr. Johnson and Mr. Ray did not communicate with members of the Attorney General's office.

26. Federal Defendants did not request that the Attorney General's office obtain information from Faith Center or Reverend Scott or serve a subpoena upon them. Federal Defendants and the Commission did not receive any records of Faith Center or Reverend Scott from the California Attorney General's office. The only document which was sent to the Commission was a copy of the subpoena served upon Faith Center.

27. Federal Defendants did not enter into an agreement or conspiracy with the members of the Attorney General's office to deprive Reverend Scott of his legal rights or to injure him.

28. Federal Defendants did not enter into an agreement or conspiracy with Paul Diederich, Joseph Baumgartner, or John Grutzmaker to deprive Reverend Scott of his legal rights or to injure him.

29. Federal Defendants did not enter into an agreement or conspiracy among themselves to deprive Reverend Scott of his legal rights or to injure him.

30. Federal Defendants have not libeled, defamed or slandered Dr. Scott. Federal Defendants have not in communications with the press or the public accused Reverend Scott of any criminal or dishonest activity or other wrongdoing.

31. The requests by Federal Defendants for records from the licensee did not violate Plaintiff's civil or constitutional rights.

32. The actions taken by Mr. Malickson, Mr. Ginsburg and Mr. Johnson in appearing before the Commission and discussing the Faith Center matter and presenting the Broadcast Bureau's recommendations were within the scope of their official duties as members of the FCC staff, and were essential for the conduct of the "public business."

33. The actions taken by Federal Defendants during the investigation of Faith Center were within the scope of their official duties and were analogous to those of a prosecutor. Those actions include the initiation of an investigation, requesting information, and speaking with witnesses.

34. The actions taken by Federal Defendants were within the scope of their official duties, were reasonable under the circumstances, and were taken in the good faith belief that the actions were lawful.

35. Any Finding of Fact erroneously designated below as a Conclusion of Law is hereby incorporated into these Findings of Fact.

STATEMENT OF MATERIAL FACTS NOT IN DISPUTE

1. Paragraphs one through thirty-four of the Findings of Fact are hereby incorporated by reference.

CONCLUSIONS OF LAW

1. Plaintiff lacks standing to complain of a violation of the civil and constitutional rights of the Faith Center, Wescott Church, Inc., or the licensed radio and TV stations owned and operated by the church corporations.

2. No civil or constitutional right of Plaintiff or of Faith Center, Wescott Church, Inc., or any station licensed to the foregoing, was violated by Defendants Wallace Johnson, William B. Ray, Arthur L. Ginsburg, Jeffrey Malickson, Joel Rosenberg, or any of them.

3. This is not an appropriate proceeding in which to review the actions of the Federal Communications Commission. 47 U.S.C. § 402, 28 U.S.C. § 2342.

4. This Court has jurisdiction over the subject matter of the instant civil action, and for the purpose of this Motion for Summary Judgment, only, assumes, without deciding, that it has personal jurisdiction over the Federal Defendants.

5. Each of the five Federal Defendants named in Conclusion No. 2 is immune from liability, either because entitled to absolute immunity [*Butz v. Economou*, 438 U.S. 478 (1978)], or because entitled to qualified immunity [*Scheuer v. Rhodes*, 416 U.S. 232 (1974)] in that all of the conduct (a) was engaged in as employees and officers of the Federal Communications Commission, (b) was within the scope of their duties, (c) was motivated solely by official duty, (d) was reasonable under all of the circumstances, and (e) was engaged in with a good faith belief of its lawfulness.

6. There is no genuine issue as to any material fact, and the Federal Defendants are each entitled to judgment as a matter of law.

7. Judgment should be entered in favor of each of the Federal Defendants, granting their Motion for Summary Judgment.

8. Any Conclusion of Law erroneously designated above as a Finding of Fact is hereby incorporated into these Conclusions of Law.

RECOMMENDED:

DATED: Nov. 28, 1979

/s/ Ralph J. Geffen
RALPH J. GEFFEN
United States Magistrate

Dated: 12/27/79

/s/ A. Andrew Hauk
A. ANDREW HAUK
United States District Judge

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

No. CV 78-3132-AAH(G)

THE REVEREND W. EUGENE SCOTT, PLAINTIFF

v.

EVELLE J. YOUNGER, ET AL., DEFENDANTS

[Filed Jan. 9, 1980]

ORDER

The Court has reviewed the file and the Magistrate's Report and Recommendation herein, and concurs with and adopts the Report and the recommended Findings of Fact and Conclusions of Law as the opinion of the Court.

IT IS ORDERED:

1. that the motion of Defendants WALLACE JOHNSON, WILLIAM B. RAY, ARTHUR L. GINSBURG, JEFFREY MALICKSON, and JOEL ROSENBERG to dismiss the Complaint with prejudice, be granted; and

2. that the motion for summary judgment of these Defendants is granted.

LET JUDGMENT BE ENTERED ACCORDINGLY on the motion for summary judgment.

IT IS FURTHER ORDERED that the Clerk serve a copy of this Order, together with the Report and

11a

Recommendation of the United States Magistrate,
and the Judgment herein, by United States mail, on
counsel for Plaintiff and on the United States Attor-
ney for the Central District of California.

Dated: 12/27/79

/s/ A. Andrew Hauk
A. ANDREW HAUK
United States District Judge

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

No. CV 78-3132-AAH(G)

THE REVEREND W. EUGENE SCOTT, PLAINTIFF

v.

EVELLE J. YOUNGER, ET AL., DEFENDANTS

[Filed Jan. 9, 1980]

SUMMARY JUDGMENT

IT IS ADJUDGED that the motion for summary judgment of Defendants WALLACE JOHNSON, WILLIAM B. RAY, ARTHUR L. GINSBURG, JEFFREY MALICKSON, and JOEL ROSENBERG is granted.

Dated: 12/27/79

/s/ A. Andrew Hauk
A. ANDREW HAUK
United States District Judge